Muslim Women and Economic Enterprise

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بسم الله الرحمن الرحيم

Preface

The Institute of Policy Studies, Islamabad is a premier research institute of Pakistan. The author was invited by the Institute for a lecture and subsequent interactive question and answer session on the concept of Islam and the economic issues of women. The questions covered a wide range. The proceedings were later compiled into an article. The English translation of the article appeared in the journal "Policy Perspectives" published by the Institute (June 2008 issue).

On the same topic, the author wrote another paper in response to the questionnaire of Islamic Fiqh Academy New Delhi. The paper was presented at the Fiqh seminar organized by the Academy in Madurai on March 28, 2009. It has been rendered in to English by Professor U. Muhammad Iqbal (Chennai).

Both articles are on the same theme. The theme has become quite important in today's era of globalization and liberalized economy. The articles are presented here together to form a coherent book on the Islamic approach about women's economic role. I sincerely hope that the book will contribute to-wards better understanding of the Islamic view point.

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(Syed Jalaluddin Omari)

Economic Role of Women: The Islamic Approach*

With the introduction of the concept of Gender and Development (GAD) in the 1990s, economic development and empowerment of women has today become a cross cutting theme of all national policies and plans worldwide.[1] Different international agreements[2] require signatories to take appropriate measures to provide women access to and control on resources to reshape gender relations.

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* Based on the presentation made at the seminar "Woman: Economy, Education and Society" organized by the Institute of Policy Studies on March 25, 2005.

1. The Fourth United Nations World Conference on Women in Beijing in1995 advocated gender mainstreaming as a strategy for promoting this equality. The Platform for Action called upon Governments and the international community to take priority action for the empowerment and advancement of women besides identifying strategic objectives in twelve critical areas of concern and proposing concrete actions to be taken to achieve those objectives. And the United Nations General Assembly, Which convened the twenty-third special session to follow up the implementation of the Beijing platform for Action in 2000, enhanced the mainstreaming mandate within the United Nations. (http://www.unesco.org/education/information/nfsunesco/pdf/BEIJIN_E.PDF)

2. For instance, Article 3 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) asks all state parties to take all appropriate measures, including legislation to eliminate discrimination in the political, economic, social or cultural, civil or any other field. The text of the Convention can be downloaded from the UN website (http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article4). The beijing Platform for Action (BPA) is also relevant.

Given the global implications of the concept of development and empowerment, it is pertinent to critically examine the position of Islam in relation to the subject under discussion, keeping in view present day realities. However, before taking up this question, the subject of family in Islam must briefly be touched upon as it has a direct bearing on the debate.

Islamic Concept of Family

A family is the basic institution of any society. It is essential for every institution to have order and discipline, without which it cannot function or even survive. The institution of family is run with the mutual collaboration and cooperation of husband and wife. The Islamic scheme for a family's management is that the woman should be relieved from all other responsibilities in order to focus on the family's internal discipline and stability, while the man should take the onus of meeting economic needs.[3] The woman's food, clothing and shelter are counted among the family's economic needs; if both partners are well-off, a servant or helper for household chores is also included in these needs. The man has to arrange for the expenses of healthcare as well.[4] This is the legal position of Islam on the responsibilities of the

3. "Men are the protectors (qawwamoon) and maintainers of women because Allah has made one of them excel over the other, and because they spend out of their possessions (to support them)...." (*An-Nisa 4:34*)

4. Islamic jurists of the past made no mention of healthcare expenses, perhaps because these were nominal in their times as most ailments were cured by homegrown treatments and medicines. Since the situation has changed considerably now, it may be assumed that it is for the man to meet the expenses of healthcare as well.

husband. In addition, good moral conduct as encouraged in Islam demands that a man treat his wife as well as he can and do everything possible for her comfort and happiness.[5]

Although it is true that a woman's home and family are her primary sphere of activity, and that she has been relieved of financial responsibilities to give the best of her time and energy to growth and sustenance of her family, it is not true that she has no right to do anything else, or that all avenues for economic endeavaurs have been shut to her.[6] Islamic history shows that, along with paying their duty to family and home, Muslim women have rendered great services outside their homes as well. They have also been involved in economic activities according to the situations in which they found themselves. It is necessary to reflect on different aspects of this phenomenon in the light of Islamic teachings:

1. Sometimes, situations demand that a wife support her husband in earning for the family. This situation, where both husband and wife work to meet the family's needs, is generally seen in the working middle class. However, even a highly educated, professionally trained and skilled woman too may find herself in such a situation that demands her to both work and earn. In such

5. The Prophet Muhammad (PBUH) is reported to have said: "The most perfect believers are the best in conduct, and the best of you are those who are best for their spouses." (*Tirmidhi*)

6. "Men shall have a share according to what they have earned, and women shall a have share according to what they have earned." (*An-Nisa 4: 32*)

circumstances, if she adopts Islamically lawful occupation, she has the right to do so.[7]

2. Women have certain sources of income as well. For example, a woman receives dower (*mahr*) from her husband, she owns her jewelry, and Islam has given her a certain share in inheritance.[8] Accordingly a woman may receive money, a plot of land, or property like a shop or house. She is free to invest her assets and holdings in a profitable business and thereby improve her economic situation.

3. There were times when women had to bear a very heavy burden of household chores and maintenance, including sieving and grinding of grains, cooking, fetching water, washing dishes as well as clothes, sweeping and dusting, etc. along with serving her husband and rearing her children. These were really hard and tiresome duties in which women used to spend almost all of their time. Today, we are living in an era of machines. Many of the chores that were done manually get done by machines now. This is one reason why, at least in urban areas, women have more time at their leisure. Moreover, children join a nursery or kindergarten when they are just three or four years of age. This means that their mothers are spared

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7. *Ibid.*

8. "Just as there is a share for men in what their parents and kinsfolk leave behind, so there is a share for women in what their parents and kinsfolk leave behind- be it little or much-a share ordained (by Allah)" (*An- Nisa 4:7*)

the time they would have had to give to them in the past. Thus, women generally have more time at their disposal now, despite attending to their household responsibilities. If they manage this time and utilize it to improve the economic conditions of their family and their own selves, there is no harm.

4. For a certain period after marriage, women remain quite busy in bearing children and giving them the special care they need in their early years. A woman might be busiest during this period.[9] When she crosses the age of 40, these responsibilities begin to shrink. However, her abilities and energies do not similarly diminish; rather, maturity and experience add to her competence. At this stage, therefore, women can engage themselves in economic activities with greater focus and attention.

Financial Activities of Women

Women can adopt any occupation or business according to their situation and circumstances, abilities and inclinations. They can seek jobs as well as invest in trade, industry, or agriculture. They can manage and supervise the ventures in which they invest or which they own. They can even create new opportunities for themselves.

Here, it is important to note that meeting the

9. For a detailed delineation of this issue, see Syed Abul A'la Moududi, Purda (Lahoure: Istaqlal Press, 1958), pp. 198-219.

financial needs of a woman is her husband's responsibility if she is married, and her father's or brother's responsibility if she is single. This is an obligation (*wajib*) on them, of which they are not exonerated even if their wife (or daughter or sister) is well off and has some other means of income. A woman's income is exclusively her own. She may spend it as she wills. She may choose to spend it on her husband and children, but this will be an act of goodness (*ihsan*) on her part and is not a legal compulsion.

Hazrat Abdullah ibn Masud (*May Allah be pleased with him*) was in a financially weak position. His wife, Zainab (*May Allah be pleased with her*) used to spend on him. She once approached the Prophet (*Peace be upon him* [PBUH]) and asked through Hazrat Bilal (*May Allah be pleased with him*) if she could spend on her husband (in addition to the orphans she was taking care of). An Ansari woman too had the same question. The Prophet (PBUH) replied:نعم، لهما اجران اجر القرابة و اجر الصدقة "Yes and for this, there is a double reward: one for keeping the relationship good and the other for charity."[10]

Guidelines for Financial Activities

To prevent women's economic activities from taking any direction considered wrong in Islam, it is essential to be aware of the following Islamic principles:

1. Islam has prescribed the limits of *halal* (lawful and allowed) and *haram* (unlawful and forbidden), which both men and women have to observe in all

10. Al-Bukhari Book 24, Hadith 545.

circumstances.

2. A distinguishing feature of the Islamic scheme for society is that the notion of free intermixing of the two genders is simply alien to it. Therefore, women cannot adopt an occupation or business in which they would have to work in close proximity with men. Chastity and modesty are important values, which give dignity and security to women. As they cannot be compromised, Islam wants women to avoid all situations where there is a danger of these values being flouted or violated.

3. The family is an important institution of the society. It is accorded great importance in the Islamic scheme of life. Its strength gives strength and stability to Islamic society as a whole, while its weakness makes the growth and very survival of Islam in society very difficult. The family is built and run by a man and woman. In this set-up, they both have rights and obligations. It is their responsibility to raise their children, and train and educate them. They may have to shoulder many other responsibilities as well. For instance, they may have to fulfill the legal and moral obligations towards their parents, brothers and sisters and any other relations who are also part of their family. On the internal front of all this, the woman has a highly significant role to play. The family needs her time and attention, energies and potential.

Thus, finances are important, but a woman should not engage herself in economic activities at the cost of the family system and discipline. She

should not give herself up to economic struggle at the cost of the warmth of relations.

The family is an abode of peace for its members and an institution that, if strong, guarantees the progress of the society.[11] Any damage to it is a loss to both the individual and the society. Therefore, it is not right for individual men and women to ignore it in their pursuit of any other objective.

Question-and-Answer Session

Q: *Women doing jobs or other activities outside the home cannot perform household duties as well as they would have otherwise. Do they still have the right to maintenance?*

A: There could be two situations in this regard. One is where a woman has opted for job or some other activity with the permission of her husband. Here, it is meaningless to accuse her of giving less time to household duties. She also retains the right to maintenance. The second situation is where a woman takes up some activity against the will of her husband, and spends quite a lot of her time outside the home or at her parents' home. Then, she will have no right to maintenance. Although the family relations cannot be taken simply as an economic contract, yet this can be understood by considering the case of a person who goes

11. See *Encyclopedia Britannica,* Vol. IV. (1943-1973), 1979. Helen Hemingway Benton, London, Also see Hammudah Abdul Atai, *The Family Structure in Islam* (American Trust Publications, 1997), pp. 13-25.

on leave according to the rules and regulations of his organization. In this situation, he would get his salary. But a person who goes on leave without informing the concerned staff and without following any procedure would have no right to get a salary.

Q: *In our society, which jobs could be considered right and correct for women within the limits prescribed by Islam?*

A: I think a woman can decide for herself, which job she would be able to observe Islamic conduct in, and which are the situations where she would not be able to. She must desist from jobs where she thinks she would be put in trying situations.

Q: *Sometimes a woman may find herself in circumstances, such as her husband's little income and absence of other resources, which compel her to do a job in which she finds it difficult to be able to observe Islamic conduct.*

A: These compulsions are a product of the contemporary economic system. It is a responsibility of an Islamic state to create an environment where everyone has opportunities to earn their livelihood according to the teachings of Islam. One should not be compelled to violate Islamic norms of conduct in order to obtain or retain a job. This is why Muslims should strive to make their society and country a true Islamic state. Then you will see that the services of educated women who have spare time and who can play their role in economic development of the country will be sought and appreciated.

In circumstances where women find themselves compelled to overlook Islam's prescribed norms of conduct, this can be regarded 'compulsion' in specific circumstances. This will have no general sanction in Islam, however.

Household Responsibilities

Q: *A hadith of the Prophet (PBUH) asks men to provide food and clothing to their wives as they would provide for themselves. Based on this, some women think that preparing food and other household chores are not included in their duties. It is for men to provide prepared food, etc. What do* fuqaha *(Islamic jurists) say in this matter?*

A: *Fuqaha* (Muslim Jurists) have deliberated on the issue of whether household chores are included in women's duties or not. To me, the hadith[12] that asks men to provide food and clothing to their wives as they would provide for their own selves does not mean that they should provide prepared food and ready-made garments to wives. In fact, the hadith implies that women's status and standard of living should not be less than that of men. We see in countries like Pakistan and India that most men actually try to keep their women in better conditions than their own. Nevertheless, women are not

12. "They have upon you [the rights] of providing for them and clothing, as regards to what is reasonable" (Tirmidhi). Also, the Prophet said to a questioner: "[Her right upon you] is to feed her when you eat, buy her clothes when you buy for yourself, not to smack her on the face, not to curse her and not to ignore her [if you have a difference with her] but in the house." (Ahmad).

treated well because of clash of temperament, lack of tolerance, quarrels, or other reasons. This is why Islam exhorts that women have equal rights to the same standard of living as their husbands. They cannot be denied maintenance and expenditure for their needs, or forced to have a lower standard of living. It is not correct that, while a man is using the car for himself, his wife is not even able to hire one; while he has one or more servants or assistants, his wife has no maid to help her. As for preparing food and other household chores, women performed this duty during the era of the Prophet (PBUH) and they do this job even today. If a woman does not consider it her legal duty and refuses to do it for her husband, then she should expect nothing more than her legal rights from her husband, and no better conduct.

Professional Training

Q: *You said that though women find it difficult to do jobs during certain periods of time in their lives, they can take up jobs more easily at later stages. But if a woman has to participate in economic activities, she would, nevertheless, have to be trained from the start. Without professional education and training, how would she enter any field?*

A: This is a very important question, and merits serious consideration and deep thought. If women wish to obtain professional education, it is a right that should not be denied to them. If they want jobs along with attending to family responsibilities, and have their husbands' consent, or if they are at an age where they have time as well as potential and experience, then they should be given

opportunities to realize their potential. This has to be properly schemed. The existing rules and regulation have been framed with men in view. Thus, for instance, the timing for work prescribed for men may not be suitable for women. Likewise, the procedure we have for appointment and retirement of men may need to be altered for women.[13] If a woman wants to begin a job even at the age of 40, she should be given the opportunity. Similarly, her retirement may be set at a later age than 60. Along with this, her health and ability to work too should be kept in view and given due regard. While we should all think over the issue, it is primarily a responsibility of the state to examine all these aspects from an Islamic perspective and design a new framework for the economic role of women.

Q: *From the Qur'anic instruction to women* وَقَرْنَ فِيْ بُيُوْتِكُنَّ *''stay in your houses'' the term 'chadar aur char diwari' was derived and it was thought that women should remain confined to their homes. Champions of womens's liberty raised a lot of hue and cry over this. We would like to hear you on this issue.*

A: The Qur'anic instruction for women ''وَقَرْنَ فِيْ بُيُوْتِكُنَّ stay in your houses''[14] does not mean that women must be

13. The concept of flexible timings to help women balance their careers with families is becoming quite popular these days, even in the Western world. Many Western countries, including the UK, have adopted this model. (See, for example, http://www.eoc.org.uk/PDF/workandfamily.pdf)

14. ''And stay in your homes and do not go about displaying your allurements as in the former time of ignorance. Establish Prayer, give Zakah, and obey Allah and His messenger. Allah only wishes to remove uncleanness from you, O members of the (Prophet's) household, and to purify you completely.'' (*Al- Ahzab 33:33*)

kept permanently in houses and not allowed to go out. What it means is that women should not leave or forsake their houses if they risk ruining them for lack of attention and care. In the Prophet's era, women used to go for prayers to the mosque, visit the market, and come out of their houses for various other tasks as well. They performed Hajj and Umarah. Nobody restricted their movement. What we need to realize is that Islam has given the internal management and administration of the home to women. It is a woman's responsibility to make the home an abode of peace, comfort and tranquility. Her conduct should not say that the home is not her focus of attention, and that an office, market, or a factory where she works has absorbed all her attention. If she comes out of her home after meeting its needs and demands, there is nothing wrong in her going out and it cannot be termed violation of the Qur'anic instruction وَقَرْنَ فِي بُيُوتِكُنَّ "stay in your houses".

Position of Husband

Q: *Holding that* اَلرِّجَالُ قَوَّامُوْنَ عَلَى النِّسَآءِ *"men are protectors and maintainers of women," the Qur'an places on men the responsibility of providing food and shelter for women. Is a man still his wife's "protector and maintainer" if he is financially weak or unemployed and cannot bear the burden of financial responsibility, or if he is disabled and cannot give her physical protection?*

A: One can think of even worse situations. For example, a man is blind and paralyzed and himself needs help and support. His wife takes care of him and bears his

expenses. Does he still retain the position of "protector and maintainer"?

The answer is that man has been apointed 'protector and maintainer' for two reasons. The first is that Allah has given a degree of superiority to man over woman. This may be for physical, mental and/or practical reasons. And this is why Islam places more political, social and financial responsibilities on men. The second reason for man's superiority is that he spends from his means on the woman in his care. This is a general rule, and exceptions are always there. A woman may be ahead of her husband financially and more able physically and, therefore, she may be spending on him. But this would not annal his status of being "protector and maintainer." Man–simply because of being a man, and the woman–because of her economic position, should not enter into a clash be cause it would destroy the home system.

Further more, we should note that along with declaring man the 'protector and maintainer,' Islam has defined a good woman as one who obeys her husband, guards her honor and chastity in his absence, and keeps his secrets.[15] The Holy Prophet (PBUH) defined a good woman as: اَلَّتِی تَسُرُّهُ اِذَا نَظَرَ وَ تُطِیْعُهُ اِذَا اَمَرَ وَلاَ تُخَالِفُهُ فِی نَفْسِهَا وَمَالِهَا بِمَا یَکْرَهُ one who pleases her husband whenever he sees her, carries out his orders, and keeps away from such attitudes about herself and his wealth that he does not like.[16]

15. Men are the protectors (qawamoon) and maintainers of women because Allah has made one of them excel over the other, and because they spend out of their possessions (to support them)..." (*An-Nisa 4: 34*)
16. Mishkat-ul-Masabih, ref. Nasai and Baihaqi.

Q: *Sometimes we see that a wife provides financial support to her husband to make him financially stable and strong. He becomes strong with her support. But then they separate on petty differences and she has no right on him. Who would be responsible for the upkeep of such a woman, and for her maintenance?*

Some people readily say that her father would take up the responsibility of her well being and upkeep. But it sounds odd that a woman who spent the best 30-40 years of her life with her husband and supported him should now come back to her father's house. Is it not against logic that her old father should be burdened with her maintenace?

A: There can be many situations similar to the one, mentioned above, which raise the question of a woman's maintenance. For instance, who would be responsible for an orphan girl's education, training and marriage? Like wise, what about the future of a young woman whose husband divorces her or dies? These situations can happen to women of all ages – young, middle-aged and old. The general principle of Shari'ah in this regard is that the closest male relation of a woman (who cannot meet her financial needs) would be responsible to take care of her. However, it is generally the husband's duty to provide maintenance to his wife even if she is well-off. In the case of an orphan girl, her closest male relation – a grandfather, paternal uncle or brother, etc. – would be responsible. If the husband of a young woman dies, or divorces her, and she does not have the means to meet her own financial needs, she would come to her parents and have all the rights that she had before marriage. If an

aged woman faces such a situation, her sons would be responsible for her maintenance. This is how the maintenance system prescribed by the Islamic Shari'ah seeks to resolve problems in varying circumstances.

It is quite another thing if we ignore the Islamic Shari'ah and think that problems cannot be resolved. If you stretch your imagination to think of a situation where a woman has no male relation, or has a male relation but he cannot bear her financial burden, then the answer is that Islam has made it the responsibility of the state to take care of women in such situations. If the state fails to do so, it is guilty of not performing its duty. If a state cannot even look after such helpless women who have none other to seek help and support from, its existence does not have any meaning. In fact, in an Islamic state or an Islamic society, it is hard to imagine a woman who neither has relations nor the state machinery to stand by her.

Life-Long Maintenance of divorcees

Q: *Sometimes it is suggested that a man who divorces his wife should be bound to provide maintenance to the divorcee until her death. This would, on the one hand, make divorce difficult and, on the other, resolve the issue of maintenance. What do you say in this regard?*

A: This suggestion is against the Islamic Shari'ah,[17] which

17. The issue was raised in the famous 'Shah Bano case' in India, in which the Supreme Court asked the husband to provide maintenance rights to his divorced wife for the rest of her life. The Court, however, had to revoke the decision in view of the protest of the Muslim population and All India Waqf Board. http://www.qantara.de/webcome/show_article.php/_c-478/_nr-552/i.html - January 5, 2007)

asks the husband to provide maintenance only until the completion of the *iddah* (i.e., the waiting period, which in divorce is three months and if the divorced woman is pregnant, ends with the delivery). How can we prescribe some thing in the name of the Islamic Shari'ah that it does not subscribe to?

As making divorce difficult, while this suggestion appears to favour women, it is, in fact, harmful for them. A man who wants to divorce his wife – whether owing to his own foolishness or due to some weakness on his wife's part – would keep the step of divorce pending if he is told that he would have to pay maintenance allowance to her for her lifetime. He would neither live with her properly as her husband, nor would he divorce her so that she may decide her own future.

Then, at times, it is the woman who wants to get rid of her husband. His conduct is wicked or wayward, or in some other way repulsive to her. Divorce is her way out. Creating obstacles in the path of obtaining divorce would only add to her misery. She would have no option but to approach the court, which may only get her separated after long and psychologically draining proceedings.

Q: *Why is it that a woman is required to observe hijab (veil) while a man is not? Is it just? Does not it go against the concept of equality of man and woman?*

A: There is no denying that there is great attraction between men and women. Their unbridled interaction and free intermixing would further provoke their sexual urge and lead them to sexual waywardness. History bears witness to this tendency, and the present age gives ample evidence that not observing *hijab* has given rise to

adultery and rape.[18] It has ruined women's honor and dignity, which *hijab* seeks to uphold.

Having said that, there can be only two situations to observe *hijab*: either the woman is required to observe *hijab* or the man is asked to do so. Islam required woman to observe *hijab* because it is the demand of nature. Man is not asked to observe *hijab* because his doing so would disturb the whole scheme of life. He is tasked with financial responsibilities to maintain his family. For this, he has to undertake certain hard tasks that, it would be cruel to assign them to a woman, who has a more tender nature and disposition. If, ignoring all these factors, men are made to observe *hijab* and stay at home, women will have to take the financial responsibility of the entire family, which will be difficult for her to cope up with.

Mixed gatherings

Q: *There can be many forms of mixed gatherings of men and women. Are all of them forbidden? Some people object to men and women attending the same session*

18. No country in the world can claim to be free from the curse of rape. However, statistics prove that such incidents are more common in the non-Muslim world than in the Muslim world where the majority of women observe *hijab*. In this regard, figures from the US are highly alarming: 7 in 10 women who have sex before age 14, and 6 in 10 of those who have sex before age 15 report they had sex involuntarily (*Facts in Brief: Teen Sex and Pregnancy:* The Alan Guttmacher Institue, New York, 1996); Teens 16 to 19 are 3.5 times more likely than the general population to be victims of rape, attempted rape or sexual assault (*National Crime Victimization Survey:* Bureaus of Justice Statistics, US Department of Justice, 1992); While 9 out of 10 rape victims are women, men and boys are also victimized by this crime. In 1995, 32;130 males aged 12 and older were victims of rape, attempted rape or sexual assault (*National Crime Victimization Survey:* Bureau of Justice Statistics, US Department of Justice, 1996).

though they are sitting separately. What is your view in this regard?

A: It is a settled matter that Islam does not approve of the intermixing of men and women. The more the intermixing, the more vehement the prohibition would be. There can be various forms of mixed gatherings. One is where their seats are mixed, they are indulging in light or loose talk, and they have opportunities to come close and be informal, which they use. This is prohibited because they provide high prohability of Islamically unacceptable conduct.

Another example is of a classroom. Let us suppose there are 25 boys and 25 girls in a classroom. Although the two groups are in the same classroom, their seats are separate and there is no intermixing of the two genders. It seems there is no harm in this. In the era of the Prophet (PBUH), women used to come to the mosque as well as to the Eid site. They would listen to the Prophet (PBUH) and offer prayers behind him, just as men did, but they would do so in separate rows.

Both men and women need to go to markets but they should be on their guard and not try to be too open or intimate in any way. Their going to the market is necessary and therefore the visiting of both is tolerated.

There is another aspect to this issue i.e. the age. The Qur'an provides concessions with regard to dress to aged women.[19] It can be inferred from this that Islam does not

19. "The women who are past their youth (and can no longer bear children) and do not look forward to marriage will incur no sin if they cast off their outer garments without displaying their adornment. Allah is All-Hearing, All-knowing." (*An-Nur 24:60*).

require old women to abstain as strictly from intermixing with men as young women.

Q: *Women used to go to mosques during the time of the Prophet (PBUH) but our religious scholars consider their coming to mosques a cause of mischief. Not allowed to come to mosques, they cannot benefit from lectures and lessons that are arranged there. It is strange that women can go to markets, and are not stopped, but their coming to mosques is opposed. What do you think is the right course?*

A: There is no denying that women used to come to the mosques during the time of the Prophet (PBUH) – and there were separate special arrangements to receive them there. But the Prophet (PBUH) also said that women's prayers at home are better than their prayers at the mosque. This means that while women are permitted to go to mosques, their going there is neither obligatory, nor does it merit more reward. The practice is simply permissible.

Contemporary ulema's opposition to women's going to mosques should be viewed in the context of today's moral degradation and chaotic environment.

Your objection is that while women are discouraged from coming to mosques, they are not stopped from going to the market. The answer to this lies in the difference between mosques and markets. The mosque is a place of worship, which requires that one should be clean, not only physically but also mentally and psychologically; one's heart and mind should be clear from the corrupting influences of base sentiments and urges. If women made frequent visits to mosques, it would become difficult to

maintain such an environment.

A market is a very different place. It is a place for exchange and trade of commodities. Unlike mosque, there is no notion of sanctity attached to it. Thus, women may go there to buy items of daily use or for other necessary things. Notably however, while they are allowed to go to the market out of necessity, it is not permissible for them to go there for fun and leisure. The prophet (PBUH) has instructed that women should not go out of their houses unnecessarily; if they have to go out, there are certain conditions they need to observe, such as wearing simple dress, not using strong perfume, avoiding crowds, and walking on the sides of the road, etc. A Muslim woman should abide by these and other related instructions, or she would be going against the Islamic Shari'ah.

As for women's being deprived of the benefits of listening to lectures and lessons that are arranged in mosques, I think that women should be given the opportunity to benefit through special systems or arrangements. Arrangements should be made to enable them to attend *Juma* (Frida) and Eid prayers in order to equip them with Islamic knowledge and strenghten their Islamic spirit and sentiment.

Judicial Role

Q: *Can woman be a judge or 'qazi'? Have women been judges during the era of the Prophet (PBUH) or during the times of the Righteous Caliphs? Or is this an ijtihadi issue (i.e., an issue requiring scholarly deliberations and resolution)?*

A: The Holy Prophet Muhammad (PBUH) was himself the 'qazi', as part of his prophetic office. He would take decisions that were final. His appointed governors and administrators decided matters in their capacity as his deputies. None of them was a woman. However, those who deliberated on the Islamic Shari'ah and issued edicts during the times of the Prophet (PBUH) and the Righteous Caliphs included women. In this regard, the name of Umm-ul Muminin Hazrat A'isha (*May Allah be pleased with her*) is very prominet.

Islamic jurists have deliberated on whether a woman can be a judge or *qazi* or not. It is an *ijtihadi* issue. Some scholars see no justification for this. The Hanafi view is that her witness is accepted in matters other than *hudud* and *qisas,* and she can be a judge in matters where her witness is accepted. This means that, with some restrictions, she can be a judge or *qazi*. However, this issue needs further discussion and deliberation.

Q: *Women are lagging behind men in education as well as in the economic and political spheres. To help them move ahead, a quota system is envisaged, in which 30 percent or more seats would be reserved for women in all walks of life. This system would be wrapped up when women are at par with men. The question is what would be the effects of such a strategy on society?*

A: If the quota system[20] could resolve some women's problems and enhance their position socially and economically, it should not be opposed. However, there

20. Background information on the concept of quotas for women and the global database of quotas for women can be found at http://www.quotaproject.org/papers_SU.htm.

are many aspects and concerns that would need to be taken into consideration. One or two considerations with respect to the economic situation can be mentioned as examples.

In Pakistan, the situation of employment is unsatisfactory even for men. People are going abroad in search of employment. In these circumstances, if you reserve 30 or 50 percent seats for women, this would render or keep an equal number of men unemployed. If there is 40 percent unemployment among them now, it would jump to 70 or 80 percent and you cannot create enough new opportunities to reduce this number in the short run. Provision of employment to deserving women is a duty of the Islamic state, but if it does so by reserving a heavy proportion of seats for them, there would be extremely negative effects on the family system.

Another drawback of the quota system is that less capable people have to be recruited according to the quota at the cost of eligible and capable people. This is not good for the state. This is, of course, a delicate issue that merits serious consideration by the government, its policy makers, and policy advisors.

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The Issue of Women's Employment

Note: *The eighteenth seminar of the Islamic Fiqh Academy was held in the city of Madurai, Tamilnadu, from February 28 to March 2, 2009. The seminar addrssed several issues. One of them was the issue of women's employment in the present era. I prepared a paper relevant to the issue, presented essential parts of the written paper at the Seminar and elucidated some other parts without reference to the paper. The version of the paper is now in your hands. The questionnaire was conceived by the Academy.*

Duties of Man and Woman in the Family

More often than not man heads the family, protecting and monitoring it, ministering to the needs of the wife and the children and, on occasions, to the needs of close relatives too. He bears the expenses on their education, upbringing and marriage. In contrast, woman is the homemaker. She keeps the domestic front spick and span, rears her children with loving care, and maintains a strict vigil over the economic assets of her husband. She discharges many other duties besides. This family sistem was in vogue in the Arabian Peninsula. However, this system was rife with serious imbalances. Rights of one over the other were not specific. Responsibilities suffered

from ambiguity. The demands of justice were too often overlooked and less frequently met. Women, being the weaker (or the fairer) sex, endured all hardships silently. Islam changed this scenario and ensured the survival of the family system by providing the system with strong foundations, purging it of the elements of oppression and injustice, and both rights and responsibilities of men and women were clarified. It terminated the absolute supremacy of the male, gave concessions to the weaker sex and strengthened it with legal protection. Islam held man responsible for the economic needs of his wife, as a measure of strengthening and ensuring the survival of the family system. In other words, it became the legal right of a woman to demand that her husband should bear the expenses of her physical needs. It is obvious that this arrangement will enable women to dedicate themselve solely to the task of home-making leaving aside financial worries.

Trend among educated women towards employment

The sweeping changes that have affected modern society and the ever-widening sphere of the necessities of life have made it obligatory on a woman to partner man in the endeavour for economic progress. As a matter of fact, it is her personal desire to realize the goal of self-sufficiency and to be free from any dependence either on her husband or anyone else. There are opportunities galore, available to her to fulfil her desire.

Even Muslim ladies in general and the educated among them in particular think on similar lines and take part in the economic activities. These activities give rise

to certain problems. How should one solve them? This humble self, a seeker after knowledge, strives in these pages to wrestle with this question.

Question and Answers

Q. 1: *How does Islamic Shariah view the attempt of women to earn their livelihood?*

A: To a large extent, Islam has emancipated women from the worries of livelihood. In ordinary circumstances, they are not duty-bound to seek a placement. However, their endeavours to improve their economic conditions cannot be termed 'undesirable'. The holy Qur'an describes provisions (Arabic: Rizq) as Allah's bounty and instructs people to seek them.

فَإِذَا قُضِيَتِ الصَّلٰوةُ فَانْتَشِرُوْا فِى الْأَرْضِ وَابْتَغُوْا مِنْ فَضْلِ اللّٰهِ. (الجمعہ:۱۰)

When the Prayer is ended, disperse in the land and seek Allah's Bounty. (62:10)

Women too reserve the right to seek Allah's bounty. There is no proof that only man has this right and a woman is deprived of it. However, there is another perspective on this issue.

A woman comes by frotune in several ways. She gets Mahr, and she gets inheritance whose quantum on occasions may be quite large. Gifts, grants, hibba are other channels for her fortune. She may be in charge of Waqf, large or small. The Islamic Shari'ah allows her the right to increase her capital and enlarge her holdings. She has the right to utilise her capital according to her will

and pleasure. The opinion, Imam Abu Haneefa, Imam Shafii, Ibnul Munthir, and according to one version Imam Ahmed too, (May Allah be merciful to them all) hold on the subject is expressed by Allama Ibne Qudama in the following words:

لِلْمَرْأَةِ الرَّشِيْدَةِ التَّصَرُّفُ فِيْ مَالِهَا كُلِّهَا بَالتَّبَرُّعِ وَالْمُعَاوَضَةِ.

A right-minded woman has the right of ownership over her entire property. She can spend her wealth in noble causes and she can invest it for a better recompense.[1]

One aspect of this deliberation is also the fact that the guardian who holds in his custody the property of a minor girl has to hand over the entire property to her when she attains puberty and is in proper frame of mind (without considering her marital status). This is the standpoint of Hazrat Ata bin Abi Ribah, Imam Thauri, and Ibnul Munthir.[2]

Q. 2: *Has the Islamic Shari'ah laid upon women the responsibility of their own maintenenance or that of their family?*

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1. Ibne Qudama, Al-Mughni 6/692. edited by Dr Abdullah bin Abdul Mohsin Al-turki and Dr Abdul Fattah Muhammad (Cairo: 1992). Imam Malik differs and Imam Muhammad, according to one version, agrees with him that a woman can exercise her right of ownership over one-third of her wealth only and she requires her husband's permission when she wishes to spend more. Ibne Qudama exposes the weakness of this viewpoint through clear arguments. Vide pp. 602-604

2. Ibne Qudama. Al Mughni, 6/201-202. Imam Malik and Imam Ahmed, according to one version hold the view that the minor girl's property cannot be restored to her before her marriage. Ibne Qudama disagrees and elucidates the weakness of their view.

A: The Islamic Shari'ah has not laid upon women the economic responsibility in ordinary circumstances. It is her father's responsibility to maintain a female child from her birth until she attains puberty, and, in fact, until she is married off. This duty passes on to her husband after her marriage. However, in certain conditions, economic responsibility devolves upon her too. Some examples are given below.

Experts in jurisprudence have made it clear that it is the mother's duty to minister to the needs of the fatherless children. Allamah Ibne Qudama Hanbali (Rah) says:

ان الام تجب نفقتها ويجب عليها ان تنفق على ولدها إذا لم يكن له اب و بهذا قال أبو حنيفة والشافعي.

As it is the duty of the children to look after the mother, it is equally the duty of the mother to spend money upon her children when they are without their father. (Along with Imam Ahmed, Imam Abu Haneefa and Imam Shafii share this view).[3]

He further says,

فان اعسر الأب وجبت النفقة على الأم، ولم ترجع بها عليه ان أيسر.

If the father is in difficult circumstances and incapable of meeting the expenses required for the

3. Ibne Qudama, Al Mughni, 11/303. Imam Malik differs as, in his view, maintenance is an obligation upon 'Asbath' and mother is not a part of the said category. Therefore, she cannot be called upon to meet the economic requirements of bringing up the children and the children do not owe similar obligations to her. (Arabic text) Al-Mughni, 11/373.

maintenance of his children, then this duty devolves upon the mother. This will not be treated as loan from her and so if circumstances change and the father becomes affluent, she cannot demand the repayment of the expenses incurred by her.

(Al-Mughni, 11/373)

Likewise, Al-Moghni argues the following,

ام معسرة وجدّة موسرة النفقة على الجدة.

If the mother is not a woman of means and the paternal grandmother is well-off, then it is the grandmother's duty to bear the expenses of the fatherless grandchildren. *(Al-Moghni, 11/367)*

On the subject of children who are unable to make ends meet in spite of attaining adulthood, the Qadoori, an authentic source of Hanafi fiqh, has this to say:

وتجب نفقة الابنة البالغة والابن الزمن على ابويه اثلاثاً، على الأب الثلثان وعلى الأم الثلث.

Father has to bear two-thirds and mother, one-third, of the expenses spent on an adult daughter and/or physically handicapped adult son.

(Hidaya with Nasbur Raya: 3/407. Darul Kutub-al Ilmiya, Lebanon,1996)

In a similar way, it has been said that in keeping with their inheritance, the sisters have to look after their indigent brother. ونفقة الأخ المعسر على الاخوات المتفرقات اخماساً على قدر الميراث. The ratio of expenses is as follows. The sibling sister has to bear three-fifths and one fifth is to be borne by half-sisters.(Hidaya with Fathul Qadeer, Ibne Humam. Darul Kutub-al Ilmiyah, Lebanon, 1995)

The opinions and arguments of the experts in jurisprudence on the subject of maintenance are not the

topic of discussion. (For details, Vide Qurtubi, Al-Jami li-Ahkam Al-Quran, vol. 2, part, 3, pp. 111-113. Darul Kutub-al Ilmiyah, Lebanon, 1988) What is relevant here is the assertion that a Muslim woman may be duty-bound to look after the members of her family under certain circumstances, as validated by the majority of scholars.

Apart from this legal discussion, there is no gainsaying the fact that there are natural urges of love and affection, cooperation and compassion integrating the members of a family. These urges lead to a different set of demands. Islam fosters and strengthens these urges. Under no circumstance is it the duty of a spouse to look after her husband. However, if an affluent spouse voluntarily helps her husband economically, it will be considered an inspiring moral gesture. The Shari'ah views it as a highly meritorious act. The economic status of *hadhrat* Abdullah bin Masood (May Allah be pleased with him) left much to be desired. His wife, Zainab, spent money on him and on her orphaned children (of her former husband). She asked the Messenger of Allah (May Allah bless and greet him)

اَيَجْزِىُ عَنِّى اَنْ اُنْفِقَ عَلٰى زَوْجِىْ وَاَيْتَامٍ فِىْ حِجْرِىْ.

Will it suffice, as a discharge of my duties, if I spend money on the maintenance of my husband and on my orphaned children?

Another woman faced the same problem too. The Prophet replied to both:

لَهُمَا اَجْرَانِ: اَجْرُ الْقَرَابَةِ وَاَجْرُ الصَّدَقَةِ.

"Yes. To both of you there will be two rewards; one, for helping the relative and two, for giving charity." *(Bukhari and Muslim, Kitab al-Zakah)*

Hadrat Umme Salma (May Allah be pleased with her) asked the Prophet (May Allay bless and greet him), "Now that Abu Salma is no more, if I spend money on his children, will I get a recompense? I cannot leave them in the lurch. After all, they are my children too." He replied,

نعم، لَكِ اَجْرُ مَا اَنْفَقْتِ عَلَيْهِمْ

"Yes. You will get the reward for whatever you spend on them." *(Bukhari, Kitab al- Nafaqat)*

There are occasions when women are morally bound to render help to members of the family. These *traditions* point to the fact that, when women cater to the needs of their respective husbands and other members of their families during the hour of their need, they become eligible for more merit and reward than what they would get if the same help is rendered in other categories of virtue. If a woman, motivated by this urge to help the family, adopts legitimate ways and means to improve her economic status, such an attempt cannot be described as unwarranted, rather will have to be categorized as highly commendable and quite befitting.

Q. 3: *What is the verdict about the economic struggle launched by women with the aim either of enjoying a higher standard of life or of making an avocation, or of generating capital assets, when the family's financial condition is enough to make do with what it has?*

A: Islam looks with disfavour at any attempt to get deeply involved in the worldly affairs and to dissipate totally one's efforts in the pursuit of worldly gains. Instead, it instructs its followers to develop an attitude of contentment. Nevertheless, if an individual earns wealth

through legitimate means and lives in the lap of luxury, he is permitted to do so. However, there is a rider. The individual's engagement should not be all-absorbing as to deny him a respite to remember God, or to make him forget his duties towards other human beings, and to lead a life of gay abandon as the people without values, principles, and commitments do. God-oriented people do not become oblivious of the need to remember God, or to pray or to pay Zakat, even when they are engrossed in the worldly matters. These people tremble, fearing God.

رِجَالٌ لَّا تُلْهِيهِمْ تِجَارَةٌ وَّلَا بَيْعٌ عَن ذِكْرِ اللَّهِ وَإِقَامِ الصَّلَوٰةِ وَإِيتَآءِ الزَّكَوٰةِ ۙ يَخَافُونَ يَوْمًا تَتَقَلَّبُ فِيهِ الْقُلُوبُ وَالْأَبْصَارُ ۝ (النور:٣٧)

People whom neither commerce nor striving after profit diverts from remembering Allah, from establishing Prayer, and from paying Zakah; people who dread the Day on which all hearts will be overturned and eyes will be petrified.

(The Qur'an, 24:37)

Trade and commercial transactions are means to meet life's necessities and to ensure the possibility of prosperity. Generally speaking, these two objectives of trade are not lost sight of. What is permissible to man should be made permissible to a woman when she opts for trade or any other legitimate strategy under Islamic regulations to replace life under straitened circumstances with a life of ease and comfort. In this matter, gender discrimination is irrational.

Q. 4: *In case women take recourse to earning their livelihood, through cottage industry, confining their economic activities to the four walls of their houses, is it*

mandatory for them to seek permission from the guardian or husband concerned even for that?

A. Permission from the husband is necessary even for such activities. The rationale behind this is as follows. The Islamic Law laid the responsibility of maintaining his wife on the husband and the wife is not obliged to earn her livelihood. The husband has to look after her as he exploits her time. That is to say, she spares her time for him in lieu of the material comforts he provides for her. Hidaya has this to say:

النفقة جزاء الاحتباس، فكل من كان محبوسابحق مقصود لغيره كانت نفقته عليه.

Man caters for his wife as a compensation for her accessibility to him. Feeding the person who has surrendered his freedom of movement is incumbent upon that individual for whose benefit that surrender has been made.

The analogy for this is as follows:

اصله القاضي والعامل في الصدقات.

The basis for this standpoint is (akin to the payment made to) the Judge and the Collector of (Revenue in the form of) charities.

(Hidaya, Kitab al-Talaq, chapter on Nafqa, Delhi: Kutub Khana Rasheediya, 1350 A.H., p. 417)

The services (read, time) of judges and collectors are hired for the benefit of Muslims and so they should be paid for their services from the State Treasury (Baitul Mal). This is exactly what applies to the maintenance of wife. When she has spared her time for her husband, she cannot take up any other activity without his permission.

Q. 5: *Is the permission of the guardian or the husband necessary for the woman to step out of her house for her livelihood? Stepping out may involve a journey for a longer or a shorter distance, during the day or the night, irrespective of the fact that her guardian may or may not be spending on her!*

A. When it is necessary for a woman to seek permission to engage in economic activity within the house, it becomes all the more imperative to seek permission for seeking livelihood, which involves stepping out of the house. The husband reserves the right to grant or not to grant permission.

Allama Ibne Qudama Hanbali says:

وللزوج منعها من الخروج الى ما لها منه بد

The husband has the right to forbid his wife to step out of the house even for those matters, which may be quite indispensable to her.

He further says:

ولا يجوز لها الخروج الا باذنه.

It is not proper for a woman to step out of the house without her husband's permission.

(Ibne Qudama, Al-Moghni, 10/224)

In addition, he says that the husband has the legal right to deny permission to his wife when she wants to call on her ailing parents. As this denial negates the courtesy, which the ailing parents morally deserve, the husband should allow his wife to see them. In a similar way, he can stop his wife from going to mosque, even though the Prophet (May Allah bless and greet him) has stated that women should not be barred from visiting

mosques. (*ibid.*)

As regards the journey undertaken by a woman, the Traditions are explicit that it is not proper for her to undertake it without a Mahram escort. The Traditions give different answers with regard to the length of the journey to which the Prophet's instruction is applicable.

Hadrat Abu Huraira (May Allah be Pleased with him) reports that the Prophet (May Allah bless and greet him) said:

لاَ يَحِلُّ لِإِمْرَأَةٍ تُؤْمِنُ بِاللّٰهِ وَالْيَوْمِ الْآخِرِ، تُسَافِرُ مَسِيْرَةَ يَوْمٍ وَلَيْلَةٍ إِلاَّ مَعَ ذِىْ مَحْرَمٍ عَلَيْهَا.

It is not permissible for a woman, subscribing to the faith in Allah and the Hereafter, to undertake a journey that lasts for one day and one night.

(Muslim, Kitab al-Hajj)

In this Traditon, a woman is not allowed to go on a daylong journey unaccompanied by an escort. In some other Traditions, the length of the journey mentioned is two days or three days. In contrast, the narration of Hadrat Abdullah bin Abbas (May Allah be pleased with both) the length of the journey is not at all mentioned.

لاَ تُسَافِرُ الْمَرْأَةُ إِلاَّ مَعَ ذِىْ مَحْرَمٍ.

"A woman should not travel but with a Mahram escort."

(vide, Muslim, Kitab al- Hajj, for Traditions on this subject)

Expert in Traditions syncretise the differences by saying that these were different questions, and so their answers reflect the differences. One person asked the Prophet (May Allah bless and greet him) about a woman travelling for three days, another person asked him about

a woman's two-day travel, and a third person asked him about a day's journey undertaken by a woman. To all these questions, the Prophet (may Allah bless and greet him) replied that a woman is not permitted to undertake travel without a Maharam escort. In a Tradition in Abu Dawood, there is a reference to 'Bareed', which referred to half a day's journey in Arabic. The report of Hadrat Abdulllah bin Abbas makes it clear that journey by itself is not proper for a woman when she has no legally permitted escort. Other Traditions can be understood in the light of this report.

At present, travel has become comfortable. Distances have shrunk. Fast moving transportation is available. International travel can be completed in a matter of hours. The process of urbanisation has made travel an unavoidable necessity. Both short and long journeys have increased in frequency. There may or may not be opportunities and possibilities for a man and a woman, strangers to each other, to meet in privacy. A woman may be molested. That is why, it cannot be claimed that a woman travelling by herself is totally free from untoward incidents. Discretion, therefore, demands that a woman should travel in the company of her husband or of any Mahram relative. Taking into account the existing circumstances, one feels the necessity to reassess the whole issue.

As regards the working hours, one knows that one has to work during the day and sometimes during the night. Risk prevails irrespetive of the work timings. One cannot lay down a generic principle in this matter. Religious- minded men and women can take their own

decisions about the profit and loss and the relevant risk and security.

The guardian or the husband has to take care of the economic needs of the woman. There is a separate set of rules for a situation where the guardian or the husband is not in a position to discharge his duty or has practically ceased to take care of the woman. This negligence or helplessness does not take away from the husband or the guardian the authority they have over the woman and she has to seek their permission in order to step out of the house.

Q. 6: *What are the Shariah stipulations with regard to the women's employment?*

A. Three significant rules come into focus in this regard.

1) Be it man or woman, employment is out of the question in areas not approved by the Islamic Shari'ah, such as the banking sector, distillery and allied industries, casinos and gambling outlets, or similar businesses forbidden by Qura'n and the Hadith.
2) A woman should have prior permission from her guardian or husband.
3) There should be no free mixing of people of opposite genders.

Q. 7: *What rules govern the use of the Veil (purdah) in the institution (educational or otherwise) where only women are colleagues and there are no men in the workplace but men are the office-bearers of the Managements?*

What regulations of purdah will women employees

have to observe in places, of work where men are employed too? In such places will regulations of purdah distinguish between young women and old?

A. Women can work in those institutions where women alone are employed and men are not employed. If men are at the helm of management, communication with them can be carried on within the prescribed limits of Shariah. Two issues need to be considered- one, the regulations of hijab applicable to women, and two, woman's communication with a non-Mahram.

(a) As far as hijab is concerned, the Islamic Shari'ah says that it is applicable to a woman from top to toe. She cannot expose any part of her body before a non-Mahram. Hadhrat Abdullah ibn Mas'ood reports that the Prophet (May Allah bless and greet him) said:

اَلْمَرْأَةُ عَوْرَةٌ، فَإِذَا خَرَجَتْ اِسْتَشْرَفَهَا الشَّيْطَانُ.

A woman should keep herself covered. When she comes out, Satan begins to ogle at her.

(Tirmidhi, Kitab al-Rida, chapter 18)

The meaning of this statement is that woman should observe Purda. When she throws it aside, Satan commences his work. There is the risk of either the woman or someone else going astray.

Whether hijab is inclusive of a woman's face and hand or they can be open to view before a non-Mahram is a moot point among experts in jurisprudence. Allama Ibne Qudama Hanbali has discussed both views and has given his verdict in favour of the all-inclusiveness of the hijab. (This humble self holds the same view.)

When hijab is applicable to the woman's figure in its

entirety, it is not proper for a man to see any part of her figure for no rhyme or reason. Allama Ibne Qudama Hambali says,

نظرالرجل الى الاجنبية من غير سبب فانه محرم الى جميعها.

It is haram for a man to see the whole body of a woman without any justification.

(Ibne Qudama, Al-Mughni Al-Mughni, 9/498)

However, it cannot be denied that, when need arises, a woman can keep her face and hands open before a stranger and he can see those parts.

In the Hanafi school of thought, mention is made of this qualified permissibility in the following words:

وينظر من الأجنبية إلى وجهها و كفيها فقط للضّرورة.

A man can see the face and palms of an unknown or unrelated lady (a stranger) only when there is a necessity.

(Al-Durru al-Mukhtar with Radd al-Muhtar, 9/631, published by Darul Kutub al-Ilmiya, Lebanon, 1994)

In addition, it is stated with reference to Tatare Khania:

النظر إلى وجه الأجنبية الحرة ليس بحرام، ولكنه يكره لغير حاجة.

Even though it is not haram to look at a free and strange woman's face, it is Makrooh (much undesirable) to do so without any pressing need.

(ibid., p. 532)

The need arises in different ways:

1) The Traditions mention that when a man proposes to

marry a lady, it is better to see her if it is possible. Hadhrat Jabir reports that the Prophet (May Allah bless and greet him) said:

إذا خطب أحدكم المرأة فان استطاع أن ينظر إلى ما يدعوه إلى نكاحها فليفعل.

When any one of you sends a proposal of marriage to a woman, then if possible, he should see her to the extent that he is persuaded to marry her.

(Abu Dawood, Kitab al-Nikah)

This Tradition denotes the face of a woman, as stated in the Hanafi school of jurisprudence.

(op. cit., 9/532)

Scholars are unanimous in granting permission to this kind of viewing. *(Ibne Qudama, Al-Mughni, 9/489)*

2) On occasions, a woman is obliged to fold her sleeves up above the wrist. Consequently, a maidservant is hired to knead flour, cook food, and wash clothes. She is obliged to keep her hands uncovered up to the elbows to carry out these duties. (Al-Durr al-Mukhtar with Radd al-Mukhtar, 9/531)

3) When any part of a woman's body has an ailment, the doctor can examine it in accordance with the necessity. There is no stipulation that only hands and face can be examined. (ibid., p. 532)

4) Ibne Qudama says that in matters of business transaction or wages, where a woman is involved, a man can see her, so that he may identify her and demand compensation in case loss is incurred. According to one version, Imam Ahmad (Rah.) has disapproved of it or has asserted that it is applicable

to a very old woman. But Ibne Qudama says that it is related to the fact of man seeing a woman needlessly.

فاما مع الحاجة وعدم الشهوة فلا بأس.

But where there is a need and no lust is involved, there is no haram if a man sees a woman.

(Al- Mughni, 9/498)

5) Similarly, there is some relaxation in the rules of hijab pertaining to maidservants. Al-Moghni says,

الأمة يباح النظر منها إلى مايظهر غالباً.

Any part of the maidservant that remains usually uncovered, one is permitted to see. *(ibid.)*

6) A male slave can look at his lady owner's face and hands without lust. If there is lust, he is not allowed to see them. According to Imam Malik and Imam Shafii, a slave belongs to the category of Mahram. (Al-Durr al-Mukhtar with Radd al-Muhtar, 9/532)

The above discussions make it clear that where it is necessary, a woman can keep her face and her hands uncovered and man is allowed to see them. However, it has to be ensured that sexual feelings are not aroused and man does not misbehave.

(b) Now, let us discuss the issue of conversing with a non- Mahram lady.

According to the Hanafi school of jurisprudence, the principle of purdah applies to a woman's voice too.

إن صوت المرأة عورة على الراجح.

In accordance with the preferred view, the voice of a woman should be concealed. *(ibid., 9/531)*

It is sunnah to greet a person with Salam and it is compulsory to return the greeting. If someone sneezes and says *'Alhamudu lillah'*, it is sunnah to respond with the expression *'Yarhamakullah'*. Our experts in jurisprudence have written:

ولاَ يكلّم الأجنبية إلا عجوزاً عطست أو سلّمت فيشمتها لاَ يرد السلام عليها.

A stranger should avoid speaking to a woman. If an old woman says 'Al hamud lillah' after sneezing, he can say 'Yarhamakullah'. But he should not return the greetings aloud. *(ibid.)*

There exists another view on this matter viz:

يجوز الكلام المباح مع امرأة أجنبية

It is permissible to canverse with a stranger woman about any permissible topic.

In addition it is stated:

لا بأس بأن يتكلم مع النساء بما لا يحتاج اليه وليس هذا من الخوض فى ما لا يعنيه، انما ذلک فى كلام فيه اثم.

*There is no harm if a man converses with women when there is no apparent need. The act does not fall in the category of inane conversation, which is looked upon as a sin.** *(Radd al-Muhtar: 9/530-531)*

Undoubtedly Islam does not approve of a conversation between a man and a woman who are strangers to each other, but permits it when the occasion so demands. To ascertain the regulations of the Shari'ah,

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* (ibid.; after quoting this viewpoint, Ibne Abideen says, فالظاهر انه قول آخر او محمول على العجوز

a woman can approach a Mufti or an Aalim. She can appear in a court to give evidence. The instruction given in the Quran to the holy spouses of the Prophet (May Allah bless and greet him) in this regard is applicable to all women of the Muslim Ummah:

فَلَا تَخْضَعْنَ بِالْقَوْلِ فَيَطْمَعَ الَّذِي فِي قَلْبِهِ مَرَضٌ وَقُلْنَ قَوْلًا مَّعْرُوفًا ۝ (الاحزاب:٣٢)

Do not be too complaisant in your speech lest those with diseased hearts should covet you; but speak in a straightforward manner. *(The Qura'n, 33:32)*

Two points are made in this verse. One, while talking to a stranger or a non-Mahram, a woman should not adopt a subtly suggestive tone lest a wayward and libidinous person's heart should entertain an evil thought and he should begin to conjure up false expectations. Two, the conversation should conform to the standard of 'Maroof'. The term has a wide connotation of decency and decorum and it does not border on 'Munkar' or vulgarity.

Man is not allowed to meet a non-Maharam woman in lonely place because the situation lends itself easily to the Devil's mischief. Hadrat Umar (Rah) Reports that the Prophet (May Allah bless and greet him) said:

لا يخلون رجل بامرأة الا كان ثالثهما الشيطان.

"Man should never seek loneliness in the company of woman because (in such a condition) Satan will gatecrash as the third person"

(Tirmithi, chapters on Ar-Rida'; Musnadi Ahmed, 1/18)

It is not advisable for a person to meet even a woman, who he intends to marry, in seclusion. (Ibne

Qudama, Al-Moghni, 9/490) That is why, permission is not granted for a meeting or conversation with a non-Mahram either in the office or in any other place, in order to prevent every chance of amorality. It is permissible for a woman to speak or express her opinion when there is a gathering. Experts in jurisprudence hold the view that, if a strange woman is in the company of a Mahram or another reliable man or woman, then it is not privacey or seclusion. (Durul Mukhtar, 9/530) This implies that she can talk to a non-Mahram in that circumstance.

(c) The Quran does discriminate between a young woman and a very old woman in the matter of Hijab regulations, as follows:

وَ الْقَوَاعِدُ مِنَ النِّسَآءِ الّٰتِیْ لَا یَرْجُوْنَ نِکَاحاً فَلَیْسَ عَلَیْهِنَّ
جُنَاحٌ أَنْ یَّضَعْنَ ثِیَابَهُنَّ غَیْرَ مُتَبَرِّجٰتٍ بِزِیْنَةٍ ط وَأَنْ یَّسْتَعْفِفْنَ
خَیْرٌ لَّهُنَّ ط وَاللّٰهُ سَمِیْعٌ عَلِیْمٌ ○ (النور:٦٠)

The women who are past their youth (and can no longer bear children) and do not look forward to marriage will incur no sin if they cast off their outer garments without displaying their adornment. But if they remain modest, that is still better for them. Allah is All-Hearing, All-Knowing.

(The Qura'n, 24:60)

Durre Mukhtar states that a handshake with a woman who is so old that no man feels a desire to marry her is allowed and, if there is no risk of an immoral act, her hand can be touched and one can travel with her. (9/529)

However, one should be aware of two or three things:

1) Permission to keep the face and the hands open

before a non-Mahram is given by the experts in jurisprudence as a temporary and ad hoc measure and there should be great precaution in turning this measure into a permanent principle.

2) Permission should be availed of as and when necessary and not excessively. One can see the girl one proposes to marry but one can neither shake hands with her nor touch her. As a legal necessity for the purpose of judgment and evidence, one is permitted to see but not touch a woman. So the standing principle is 'الضرورات تتقدر بقدرها' (ibid., p.533)

3) Even in the circumstances where hands and face can be open, the condition is that the sexual urge or motive must not be there. If it is there, permission is cancelled. A slave cannot look with lust at the lady who owns him and if she is young, he should not look at her at all. (ibid., p.532)

   There is permission to see that part of the maidservant's body which remains usually uncovered. But, if sexual urge is stirred on looking at it, then it should not be seen. (ibid.)

   Imam Ahmed does not allow one to dine with a divorced lady. (Ibne Qudama, Al-Moghni, 9/498-499)

In the background delineated, it becomes clear that it will not be proper for a Muslim woman to work as a sales girl or in any kindred position because it will then be quite impossible to conform to the hijab regulations. Constant connection and contact with non-Mahram men will be there and a sort of possible promiscuity. In order

to push the sales up, the client or the consumer has to be prevailed upon to buy and so the salesgirl may be under a constraint to adopt a somewhat flirtatious tone, which cannot be permitted at all.

Some Aspects Clamouring for Consideration

There exists a need to reappraise the whole issue in the light of the conditions prevailing now. The Traditions allot the role of an administrator of her husband's house to a woman.

المرأةُ راعيَةٌ على بيت بعلها و ولده وهي مسئولة عنهم.

A wife is given the charge of her husband's house and of his children and she is held accountable for this duty. *(Bukhari, Kitab al-Atq; Muslim, Kitab al- Imarat)*

Her duty includes maintaining the household, protecting the husband's wealth, feeding children, training them, etc. Formerly, a woman was free to discharge this duty, and on occasions she used to supplement her husband's income by earning on her own. But now conditions have changed radically.

1) Domestic chores, work in the kitchen, housekeeping upbringing of children,etc. consumed much of a woman's time earlier. In fact, if she was part of a poor household, these tasks consumed all her time earlier. But now, in the urban households, use of several gadgets has reduced time consumption to a great extent. (She has the advantage of leisure now.)

2) Services of a baby-sitter and a nanny are available. Schooling for children begins much earlier nowadays (with the introduction of creche and pre-LKG) and

then they have education at the primary, secondary and tertiary levels. Stay in the hostel is an experience some children get at the school level itself.

3) The cost of living has become dearer. Expenditure has increased. Standard of living has registered a change. As a result, man's income proves insufficient quite often. One way of reacting to this situation is to exhort man and wife to exercise patience, gratitude and contentment, and to somehow manage within the constraints of the husband's income. Another way is to authorise a woman to adopt a remunerative profession suitable to her and lead a more comfortable life.

4) Undoubtedly, it is the husband's right and prerogative to permit or not to permit his wife to earn a livelihood. However, to deny this permission to a competent and qualified woman, who has leisure on hand, and who can contribute to her own and her family's prosperity, may result in mental tension and strife. Therefore, it is suggested that instead of looking at the issue from the legal perspective, it will be more befitting to consider the matter from the point of view of family's welfare and progress.*

(*Translated by:* Professor U. Muhammad Iqbal)

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* To study the subject in detail, my book (in Urdu) on the family system in Islam may come in handy. The book has been published by Markazi Maktaba Islami Publishers, D-307, Dawat Nagar, New Delhi-25